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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,858	08/23/2002	Judy Martin	37104112001	4598

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EXAMINER

EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 05/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/064,858

Applicant(s)

MARTIN ET AL.

Examiner

Joseph F Edell

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 August 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to because Figure 3 is darkened to the point that details of the invention are unclear. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claims 3 and 4 are objected to because of the following informalities:
- a. claim 3, line 2, "user"s" (line 2) should read "user's";
 - b. claim 4, line 2, "user"s" (line 2) should read "user's".
- Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1, 19, and 20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the

invention. Claim 1 defines a seat having at least one connection member communicating with both the forward portions of the first and second members as well as the rearward portions of the first and second members. However, the specification discloses a bicycle seat having two connection members (horizontal adjustable turnbuckles) between the first and second members of the seat. Therefore, one skilled in the art would not be enabled to make a seat having first and second members wherein the same connection member connects the forward portions and the rearward portions of the first and second members, as recited in claim 1. Also, claims 19 and 20 define first and second members disposed in different horizontal planes, yet the specification does not disclose the horizontal positioning of the first and second members. Based upon Figures 1-3, the first and second members appear to be disposed in the same plane. Therefore, one skilled in the art would not be enabled to make a bicycle seat having first and second member disposed in different horizontal planes, as recited in claims 19 and 20.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 10, the phrase "said seat rail is generally "U" shaped, such that the bottom of the "U" shape is under said first rearward portion and said second portion"

Art Unit: 3636

is unclear rendering the scope of the claim indefinite. Figures 1-3 and the disclosure do not give detail as to what the meets and bounds of "U" shaped entails.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-4, 6-11, and 13-20, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 872,124 to Hammarén.

Hammarén discloses a bicycle seat that includes all the limitations recited in claims 1-4, 6-11, and 13-20, as best understood. Hammarén shows a bicycle seat having a first member (Fig. 1) with forward and rearward portions c,a (Fig. 1) to received a user's buttocks, a second member (Fig. 1) with forward and rearward portions d,b (Fig. 1) to received a user's buttocks, and connection members r,q (Fig. 1) disposed between the forward portions and rearward portions of the first and second members wherein the first and second members are asymmetrical halves of the seat that do not interlock and the connection members have a rod m,n,o,p (Fig. 1) in combination with a bolt m',n',o',p' (Fig. 1) and mounted to a seat bar or rails f (Fig. 1).

9. Claims 1-4, 6-11, and 13-20, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,209,954 B1 to Bombardier.

Bombardier discloses a bicycle seat that includes all the limitations recited in claims 1-4, 6-11, and 13-20, as best understood. Bombardier shows a bicycle seat having a first member 12A (Fig. 1) with forward and rearward portions 16A, 18A (Fig. 1) to receive a user's buttocks, a second member 12B (Fig. 1) with forward and rearward portions 16B, 18B (Fig. 1) to receive a user's buttocks, and connection members 44A, 44B, 50A, 50B (Fig. 9) disposed between the forward portions and rearward portions of the first and second members wherein the first and second members are asymmetrical halves of the seat that do not interlock and the connection members have a rod 50A (Fig. 5) in combination with a bolt 58A (Fig. 5) and mounted to a seat bar or rails 20 (Fig. 1).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammarén in view of U.S. Patent No. 6,290,291 B1 to Kojima.

Hammarén discloses a bicycle seat that is basically the same as that recited in claims 5 and 12 except that the connection members lack turnbuckles, as recited in the

claims. Kojima shows a bicycle seat similar to that of Hammarén wherein the connection member 18 (Fig. 3) has a turnbuckle 54 (Fig. 3) in combination with two screws 56a,56b (Fig. 3). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the bicycle seat of Hammarén such that the connection members have turnbuckles in combination with two screws, such as the bicycle seat disclosed in Kojima. One would have been motivated to make such a modification in view of the suggestion in Kojima that the seat having a connection member with a turnbuckle allows for an infinitely adjustable seat with widths varying between a city-style saddle and a road racing-type saddle.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to bicycle seats:

U.S. Pat. No. 351,251 to Copper

U.S. Pat. No. 537,376 to Wright et al.

U.S. Pat. No. 576,192 to Hoyt

U.S. Pat. No. 591,330 to Downes

U.S. Pat. No. 608,089 to Wellmann

U.S. Pat. No. 608,682 to Jamieson

U.S. Pat. No. 2,784,769 to Fisher

U.S. Pat. No. 5,305,710 to Ward, Jr.


U.S. Pat. No. 5,713,632 to Su

U.S. Pat. No. 6,079,774 to Proust

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

JE
May 15, 2003


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600